

SUPP

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

SEAN FEELY, an individual

Plaintiff,

vs.

CARRINGTON MORTGAGE SERVICES,
LLC, a foreign limited liability company; and
COMPASS RESOLUTION SERVICES, LLC, a
foreign limited liability company,

Defendants.

Case No.: 2:13-cv-00634-RCJ-CWH

PLAINTIFF'S SUPPLEMENT IN SUPPORT OF MOTION FOR ATTORNEYS' FEES
AND COSTS

Plaintiff hereby files the following supplement pursuant to the minute order (Order),
dated September 16, 2014, as follows. This motion is made and based on the following Points
and Authorities; any exhibits attached hereto; and the record before this Court.

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I. LEGAL ARGUMENT

A. The FDCPA mandates an award of attorneys' fees to a successful consumer plaintiff.

15 U.S.C. § 1692k(a) provides in pertinent part:

[A]ny debt collector who fails to comply with any provision of this subchapter with respect to any person *is liable* to such person in an amount equal to the sum of—

(3) in the case of any successful action to enforce the foregoing liability, *the costs of the action, together with a reasonable attorney's fee* as determined by the court.

15 .S.C. § 1692k(a) (emphasis added).

1. Plaintiffs' request for \$11,740.50 incurred litigating their claims, multiplied by their hourly rate is reasonable.

Defendants' Opposition simply concludes that the attorney's fees are unreasonable in light of the settlement amount of \$1,000.00 and the attorneys fees requested (the Opposition then goes on to state that counsel should be given \$999.00 in *reasonable* fees). Plaintiff's counsel is submitting its billing records for this Court (as ordered) to determine the sole issue of a reasonable fee in this matter.

Plaintiff's counsel has attached the time records, pursuant to this Court's request, giving the breakdown of time spent on discrete tasks and the professional performing the tasks. See Exhibit "1."¹ As the Court is aware, the issue of how much time was spent pre or post settlement is irrelevant. "In statutory fee cases, federal courts, including our own, **have uniformly held that time spent in establishing the entitlement to and amount of the fee is compensable.**" *In re Nucorp Energy, Inc.*, 764 F.2d 655, 659-60 (9th Cir. 1985)(emphasis added). "This is so because it would be inconsistent to dilute a fees award by refusing to compensate attorneys for the time they reasonably spent in establishing their rightful claim to the fee." *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 981 (9th Cir. 2008)(emphasis added); *see also Louisiana Power & Light Co. v. Kellstrom*, 50 F.3d 319, 336 (5th Cir. 1995); *Prandini v. Nat'l Tea Co.*, 585 F.2d 47, 53 (3d Cir. 1978). As itemized in the attached redacted billing as Exhibit "1":

¹ Counsel has combined two different reports of the time as one exhibit, but it must be noted the firm changed billing software at the beginning of 2014, so the formatting looks different than time posted prior to 2014.

Plaintiffs' counsel's rates and time sought are broken down as follows:

JAMIE S. COGBURN, ESQ. \$305.00² at .7 hrs = \$213.50

JASON C. BARRON, ESQ. \$305.00 at 6.9 hrs = \$2,104.50

LARSON A. WELSH, ESQ. \$295.00 at 14.2 = \$4,189.00

PAUL CULLEN, ESQ. \$275.00 at 12.6 hrs = \$3,465.00

KRISTIN LITTLE \$135.00 at 13.1 hrs = \$1,768.50

Total Time: 47.5/ Total Fees: \$ 11,740.50

Plaintiff's costs are \$499.80 and broken down as follows: Postage: 3.70; Copies 33.60; Fax 2.50; Process Service 110.00; Filing Fee 350.00.

See Affidavit of Jamie Cogburn, Esq. attached to original Motion for Attorney's Fees & Costs;

See also Exhibit "1."

II. CONCLUSION

Under the fee-shifting provision included in the FDCPA, this Court must award attorneys' fees to Plaintiff because he successfully enforced his claims against Defendant. The award should not be conditioned upon, and need not be proportionate to, the amount of damages that were recovered. Rather, it should be based on a simple lodestar calculation: the product of reasonable hours times a reasonable rate. Plaintiff's attorneys spent 35.5 hours successfully litigating their claims, for which Plaintiff seek only 30.2 hours worth of time, at an average hourly rate of \$194.

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² Billing rate of \$305.00 was reduced as a courtesy in an effort to resolve this matter from billing rates reflected in attached exhibit 1.

1 Plaintiff attests both their time entries and their hourly rates are reasonable. See Exhibit
2 "1." Further, Courts across the country, including this Court, have found such rates to be
3 reasonable. Indeed, their average hourly rate is less than the average rate charged by Nevada
4 consumer protection attorneys and is in line with the Laffey Matrix. Therefore, counsel
5 respectfully moves this Court for a lodestar award of \$11,740.50.

6 DATED this 23rd day of September, 2014

7 COGBURN LAW OFFICES

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9 By: /s/ Jason C. Barron, Esq.
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PROOF OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 2879 St. Rose Pkwy, Suite 200, Henderson, NV 89052. On September 23rd, 2014, I served the within document(s):

PLAINTIFF'S SUPPLEMENT IN SUPPORT OF MOTION FOR ATTORNEYS' FEES AND COSTS

- ☐ By **U.S. Mail** a copy of the document(s) listed above to the person(s) at the address(es) set forth below.
- X By **CM/ECF/Clark County Wiznet Filing Pursuant to EDCR 8.05(a)** – with the United States District Court of Nevada, or Clark County District Court, District of Nevada EDCR 8.05(a), a copy of the Court's notification of e-filing is attached to the hard copy for either faxing, mailing, overnight delivery, and/or hand-delivery.
- ☐ By **Facsimile Transmission** – the transmission was reported as complete and without error. A copy of the transmission report, properly issued by the transmitting machine, is **attached** to the hard copy. The names and facsimile numbers of the person(s) served are as set forth below.
- ☐ By **Overnight Delivery** – by depositing a true copy of the same enclosed in a sealed envelope, with delivery fees provided for, in an overnight delivery service pick up box or office designated for overnight delivery, and addressed as set forth below.
- ☐ By personally delivering a copy of the document(s) listed above to the person(s) at the address(es) set forth below.

Christopher L. Benner, Esq.
WRIGHT, FINLAY & ZAK, LLP
5532 South Fort Apache Road, Suite 110
Las Vegas, NV 89148
Attorney for Defendants

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Kristin Little
An employee of Cogburn Law Offices